

NOTICE OF EXPEDITED RULEMAKING
MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS
REGULATION V - AIR QUALITY STANDARDS AND AREA CLASSIFICATION
RULE 510 – AIR QUALITY STANDARDS

PREAMBLE

- 1. Sections Affected**

	<u>Rulemaking Action</u>
Rule 510 § Index	Amend
Rule 510 § 100	Amend
Rule 510 § 200	Amend
Rule 510 § 300	Amend
Rule 510 § 400	Amend
Rule 510 § 500	Amend

- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**

Authorizing statutes: Arizona Revised Statutes (ARS) § 49-471.08, 49-479
Implementing statutes: Arizona Revised Statutes (ARS) § 49-473, 49-479

- 3. A list of all previous notices appearing in the Register addressing the expedited rulemaking:**

Notice of Rulemaking Docket Opening: 11 A.A.R. 5133, December 2, 2005

- 4. The name and address of department personnel with whom persons may communicate regarding the rulemaking:**

Name: Hilary R Hartline or Jo Crumbaker, Maricopa County Air Quality Department
Address: 1001 North Central Avenue, Suite # 695, Phoenix, AZ 85004
Telephone Number: 602-506-3476 or 602-506-6705
Fax Number: 602-506-6179
E-Mail Address: hhartline@mail.maricopa.gov or jcrumbak@mail.maricopa.gov

- 5. An explanation of the rule, including the department's reasons for initiating the rule:**

Background
Maricopa County is proposing this rulemaking to respond to recent notices published by the Environmental Protection Agency (EPA) in the Federal Register (FR). Maricopa County is updating the ambient air quality standards for PM_{2.5} and 8-hour averaged ozone to reflect the current standards. The Arizona Department of Environmental Quality (ADEQ) adopted these standards in a final rulemaking published in the Arizona

Administrative Register (AAR) on September 2, 2005 (11 AAR 3305). In this rulemaking, Maricopa County is also proposing other rule revisions for consistency with the text in Title 18 of the Arizona Administrative Code (AAC), Chapter 2, Article 2 and 40 Code of Federal Regulations (CFR).

Summary

PM_{2.5}

In 1997, the EPA promulgated final rules implementing new primary and secondary National Ambient Air Quality Standards (NAAQS) for fine particulate matter, or particulate matter with an aerodynamic diameter of less than or equal to 2.5 microns (PM_{2.5}) (62 FR 38652 - 38760, July 18, 1997). The new federal primary standard for PM_{2.5}, is 15 micrograms per cubic meter (µg/m³), annual arithmetic mean concentration, and 65 µg/m³, 24-hour average concentration. This new PM_{2.5} standard is expected to provide increased protection against a wide range of particulate matter-related health effects, including premature mortality and increased hospital admissions and emergency room visits, primarily in the elderly and individuals with cardiopulmonary disease; increased respiratory symptoms and disease, in children and individuals with cardiopulmonary disease such as asthma; decreased lung function, particularly in children and individuals with asthma; and alterations in lung tissue and structure and in respiratory tract defense mechanisms. The new federal secondary standard for PM_{2.5} is identical to the federal primary standard, and is expected to provide protection against particulate matter-related public welfare effects including soiling, material damage, and visibility impairment. In addition, the EPA added Appendix L, Reference Method for the Determination of Fine Particulate Matter as PM_{2.5} in the Atmosphere, and Appendix N, Interpretation of the NAAQS for Particulate Matter, to 40 CFR 50. The reference method in 40 CFR 50, Appendix K, was also amended by the EPA for conformity with the format of other appendices. On April 22, 1999, 64 FR 19717 - 19719, the EPA further revised two requirements for measurements of fine particulates in 40 CFR 50, Appendix L. On January 5, 2005 (70 FR 953 - 954), the EPA classified Maricopa County as "Unclassifiable/Attainment" for PM_{2.5}.

In the July 18, 1997 ruling (62 FR 38652 - 38760), the EPA also promulgated final rules revising the existing NAAQS for particulate matter with an aerodynamic diameter of less than or equal to 10 microns (PM₁₀). On May 14, 1999, the U.S. Court of Appeals for the D.C. Circuit issued an opinion questioning the constitutionality of the Clean Air Act (CAA) authority to review and revise the NAAQS in response to a lawsuit, *American Trucking Associations, Inc., et al. v. United States Environmental Protection Agency* and consolidated cases. The Court found that there was adequate evidence to justify EPA's choice to regulate both coarse and fine particulate matter pollution, but stated that EPA's decision to issue separate, but overlapping, regulations governing fine particulates and coarse particles was unreasonable. In its decision, the Court vacated the revised PM₁₀ NAAQS. On December 22, 2000 (65 FR 80776 - 80779), the EPA took final action on the revised PM₁₀ NAAQS, by removing 40 CFR 50.6(d) and leaving the pre-existing PM₁₀ NAAQS in effect. On July 30, 2004 (69 FR 45592 - 45596), the EPA took further final action to remove additional requirements related to the

revised PM₁₀ NAAQS concerning new measurement methods, a new attainment test, and air quality monitoring schedules.

Sulfur Oxides

On May 22, 1996 (61 FR 25566 - 25580), the EPA promulgated a final decision concerning the NAAQS for sulfur oxides, in the form of sulfur dioxide. In this decision, the EPA restated the NAAQS in terms of ppm rather than $\mu\text{g}/\text{m}^3$, added explicit rounding conventions, and specified data completeness and handling conventions. The EPA also announced its intention to retain the block averaging convention for the 24-hour, annual, and 3-hour standards and added this clarifying language to 40 CFR 50.4 and 40 CFR 50.5.

Ozone

On July 18, 1997 (62 FR 38856 - 38896), the EPA promulgated a final rule implementing new NAAQS for ozone. The new primary ozone NAAQS sets forth an 8-hour standard at a level of 0.08 ppm. The standard is based on the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area. This new primary standard is expected to provide increased protection to the public, particularly at-risk populations such as children, against a wide range of ozone-induced health effects, such as decreased lung function, primarily in children active outdoors; increased respiratory symptoms, particularly in highly sensitive individuals; hospital admissions and emergency room visits for respiratory causes, among children and adults with pre-existing respiratory disease such as asthma; and inflammation of the lung, and possible long-term damage to the lungs. The new secondary standard is identical to the primary standard, and is expected to provide increased protection to the public welfare against ozone-induced effects on vegetation, such as agricultural crops, forests and other ecosystems, and visible foliar injury to sensitive species. In this rulemaking, the EPA has also specified that the 1-hour standard set forth in 40 CFR 50.9 will no longer apply to an area once the EPA determines that the area has air quality meeting the 1-hour standard. The EPA also revised Appendices D and H, removed and reserved Appendix E, and added a new Appendix I.

The new ozone standards were challenged by industry and some states in *American Trucking Associations, Inc., et al. v. United States Environmental Protection Agency*. On July 20, 2000 (65 FR 45182 - 45200), the EPA promulgated a final rule rescinding the finding that the 1-hour ozone NAAQS and the accompanying designations and classifications no longer apply in certain areas, in response to the lawsuit. In this rulemaking, the EPA also revised 40 CFR 50.9(b) to clarify that the 1-hour ozone standard continues to apply to all areas until the 8-hour standard has become fully enforceable under part D of title I of the CAA and is no longer subject to further legal challenge. The EPA further clarified this issue in a final rule published on June 26, 2003 (68 FR 38160 - 38163), by staying its authority to determine that the 1-hour NAAQS for ozone no longer applies in areas that meet the standard.

The United States Supreme Court decided the case on February 27, 2001, ruling that the new ozone standards promulgated by the EPA may be implemented. On November 14, 2002, the EPA issued a memorandum outlining the schedule for designating areas under the 8-hour ozone standard. This memorandum reflected an agreement between the EPA and environmental organizations concerning ozone designations, as a resolution to the lawsuit. In order to comply with the agreement, the EPA requested States to provide designation recommendations to the Regional Administrator by July 15, 2003. States have until 2007 (three years from the date of the designation) to submit State Implementation Plans (SIPs) to the EPA. On April 30, 2004 (69 FR 23951 - 24000), the EPA revised 40 CFR 50.9(b), stating that the 1-hour ozone NAAQS no longer applies to an area one year after the effective date of the designation of the area for the 8-hour ozone NAAQS. Also on April 30, 2004 (69 FR 23878 - 23880), the EPA classified part of Maricopa County as nonattainment for the 8-hour ozone standard. On June 14, 2005 (70 FR 34362 - 34371), the EPA redesignated the Phoenix metropolitan 1-hour ozone nonattainment area from nonattainment to attainment. In 70 FR 44470 - 44478, August 3, 2005, the EPA codified in 40 CFR 81.303 that the 1-hour ozone standard is revoked effective June 15, 2005 for all areas in Arizona.

Section by Section Explanation of Changes:

- 102 Maricopa County proposes to add an "Availability of Information" section to indicate where materials referenced in the rule are available.
- 201 Maricopa County proposes to add a definition for Primary Ambient Air Quality Standards. The term national primary ambient air quality standard is defined by the EPA in 40 CFR 50.2(b), and ADEQ defines the term primary ambient air quality standards in AAC R18-2-101.
- 202 Maricopa County proposes to add a definition for Secondary Ambient Air Quality Standards. The term national secondary ambient air quality standard is defined by the EPA in 40 CFR 50.2(b), and ADEQ defines the term secondary ambient air quality standards in AAC R18-2-101.
- 301 Maricopa County proposes to remove the standards for "Total Suspended Particulates (TSP)". The EPA replaced the TSP increments with increments for PM₁₀ on June 3, 1993 (58 FR 31622). Maricopa County proposes to add standards for "Particulate Matter - 2.5 Microns Or Less (PM_{2.5})". These standards are outlined in 40 CFR 50.7 and AAC R18-2-201(B).
- 302 Maricopa County proposes to revise this section, "Particulate Matter - 10 Microns Or Less (PM₁₀)", to reflect the language used in 40 CFR 50.6 and AAC R18-2-201(A).
- 303 Maricopa County proposes to revise this section, "Sulfur Oxides (Sulfur Dioxide)", to reflect the language used in 40 CFR 50.4, 40 CFR 50.5 and AAC R18-2-202.
- 304 Maricopa County proposes to remove the standard for "Ozone: One-hour Average Concentration". On June 14, 2005 (70 FR 34362 - 34371), the EPA redesignated the Phoenix metropolitan 1-hour ozone nonattainment area from nonattainment to attainment. In 70 FR 44470 - 44478, August 3, 2005, EPA codified in 40 CFR 81.303 that the 1-hour ozone standard is revoked effective June 15, 2005 for all areas in Arizona. Maricopa County proposes to add the standards for "Ozone Eight-

- hour Average Concentration". These standards are outlined in 40 CFR 50.10 and AAC R18-2-203(B).
- 305 Maricopa County proposes to revise this section, "Carbon Monoxide", to reflect the language used in 40 CFR 50.8 and AAC R18-2-204.
- 306 Maricopa County proposes to revise this section, "Nitrogen Dioxide", to reflect the language used in 40 CFR 50.11 and AAC R18-2-205.
- 307 Maricopa County proposes to revise this section, "Lead", to reflect the language used in 40 CFR 50.12 and AAC R18-2-206.
- 308 Maricopa County proposes to clarify this section by moving the table listing the applicable 40 CFR 50 appendices to a separate section (new Section 308.1). Maricopa County also proposes to remove the incorrect reference to "subsections 309.1 and 309.2".
- 308.1 (new) Maricopa County proposes to remove the references to "Total Suspended Particulates" and Appendix B, because the EPA replaced the TSP increments with increments for PM₁₀ on June 3, 1993 (58 FR 31622). Maricopa County proposes to add "PM_{2.5}" and 40 CFR 50, Appendix L to this section.
- 308.2 (new) Maricopa County proposes to remove the unnecessary text "prior to the effective date of this regulation". Each reference or equivalent method designated by the EPA is acceptable for use until the reference or equivalent method is subsequently cancelled or superseded by the EPA. Maricopa County proposes to replace the outdated reference to "Title 40, Part 51, Section 51.17a of the Code of Federal Regulations" with "40 CFR 58, Appendix C".
- 308.2 (old) Maricopa County proposes to remove Section 308.2, because it does not apply.
- 308.3 Maricopa County proposes to revise this section to remove unnecessary language.
- 309 Maricopa County proposes to add Section 309, Additional Requirements. This text is equivalent to the ADEQ regulations in AAC R18-2-215(B) and R18-2-216.
- 310 Maricopa County proposes to add Section 310 to indicate that materials referenced in this rule are incorporated by reference in Appendix G of the Maricopa County Air Pollution Control Regulations.
- 401 Maricopa County proposes to remove the outdated text in this section and replace with references to: 40 CFR 58.26 and 40 CFR 58, Appendix F, in reference to the annual air quality monitoring report; and, 40 CFR 58.50 and 40 CFR 58, Appendix G, in reference to the daily air quality index report.

6. Demonstration of compliance with ARS §49-112:

Under ARS § 49-479(C), a county may not adopt or amend a rule that is more stringent than the rules adopted or amended by the Director of the ADEQ, unless the county demonstrates compliance with the requirements of ARS § 49-112.

ARS § 49-112(A)

Maricopa County is in compliance with ARS 49-112(A) in that Maricopa County is proposing to adopt revisions to Rule 510 that are not more stringent than nor in addition to a provision of ARS Title 49 or rules adopted by the Director of the ADEQ or any Board or Commission authorized to adopt rules pursuant to ARS Title 49, therefore no demonstration under ARS § 49-112 is necessary. The revisions to Rule 510 are being proposed to reflect revisions to 40 CFR promulgated by the EPA and published in the Federal Register notices cited in Section 5 of this Notice of Expedited Rulemaking. The ADEQ has adopted these rule revisions in a final rulemaking published in 11 AAR 3305, September 2, 2005. Other changes are made for consistency with the text in 40 CFR and AAC, Title 18, Chapter 2, Article 2.

ARS § 49-112(B)

The ARS § 49-112(B) demonstration does not apply because these particular rules are in that portion of Maricopa County's air quality program that is administered under direct statutory authority. Therefore, these rules are not being adopted or revised in lieu of a state program.

7. Demonstration of compliance with ARS § 49-471.08:

A county may declare an expedited rulemaking if the rule is adopted pursuant to ARS § 49-112(B) and the rule incorporates a conforming change to directly reflect federal or state rule or law. The changes incorporated into Rule 510 have been proposed in order to directly reflect federal law.

ARS § 49-471.08(A)(1) - Demonstration that the rule or ordinance making is substantially identical to the sense, meaning and effect of the federal or state rule or law from which it is derived.

Rule 510 is substantially identical to the ADEQ's Ambient Air Quality Standards located in the AAC, Title 18, Chapter 2, Article 2. In addition, revisions are being proposed to reflect changes made by the EPA to 40 CFR, Part 50, National Primary and Secondary Ambient Air Quality Standards, and all accompanying appendices. Other changes are made for consistency with the text in 40 CFR and AAC, Title 18, Chapter 2, Article 2. This rule implements federal standards according to each standard identified.

ARS § 49-471.08(A)(2) - Written finding by the Control Officer setting forth the reasons why the rule or ordinance making is necessary and does not alter the sense, meaning or effect of the federal or state rule or law from which it is derived.

This rulemaking is required to incorporate revisions made to the National Primary and Secondary Ambient Air Quality Standards and all accompanying appendices located in 40 CFR 50. Revisions to Rule 510 are being proposed to reflect revisions to 40 CFR promulgated by the EPA and published in the Federal Register notices cited in #5 of this Notice of Expedited Rulemaking. The ADEQ has adopted these rule revisions in a final rulemaking published in the Arizona Administrative Register (AAR) on September 2, 2005 (11 AAR 3305).

Other changes are made for consistency with the text in 40 CFR and AAC, Title 18, Chapter 2, Article 2. Rule 510 does not alter the sense, meaning or effect of the state rules and federal regulations from which they are derived, as it incorporates language that is essentially the same as 18 AAC, Chapter 2, Article 2 and 40 CFR, Part 50.

ARS § 49-471.08(A)(3) - Demonstration that fees established in the rule or ordinance do not exceed limits specified in § 49-112.

Under ARS § 49-112(B), a county may adopt rules in lieu of a state program that are as stringent as a state program, if the county demonstrates that the cost of obtaining permits or other approvals from the county will be approximately equal to or less than the costs of obtaining similar permits. Rule 510 codifies the ambient air quality standards. The standards codified are substantially identical to the ADEQ and the EPA. In addition, there are no fees associated with this rule. Therefore, existing fees that comply with ARS 49-112 remain in place.

8. A reference to any study relevant to the rule that the department reviewed and either proposes to rely on or not rely on its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

See also: *American Trucking Associations, Inc., et al. v. United States Environmental Protection Agency*, 336 U.S. App. D.C. 16, 175 F. 3d 1027, and 531 U.S. 457. Available for review at: Maricopa County Air Quality Department, 1001 North Central Ave, Suite 695, Phoenix, AZ, 85004.

See also: *Christine Todd Whitman, Administrator of Environmental Protection Agency, et al. v. American Trucking Associations, Inc. et al.; American Trucking Associations, Inc., et al. v. Christine Todd Whitman, Administrator of Environmental Protection Agency, et al.*, 531 U.S. Supreme Court 457, AT 472. Available for review at: Maricopa County Air Quality Department, 1001 North Central Ave, Suite 695, Phoenix, AZ, 85004.

See also: Criteria documents for Final Rule at 62 FR 38652 (Air Quality Criteria for Particulate Matter ("Criteria Document") (three volumes, EPA/600/P-95-001aF through EPA/600/P-95-001cF, April 1996, NTIS #PB-96-168224,) and (Review of the National Ambient Air Quality Standards for Particulate Matter: Policy Assessment of Scientific and Technical Information ("Staff Paper") (EPA-452/R-96-013, July 1996, NTIS #PB-97-115406). Available for review at: <http://www.epa.gov/ttn/oarpg/t1main.html>.

See also: Criteria documents for Final Rule at 62 FR 38856 (Air Quality Criteria for O₃ and Other Photochemical Oxidants ("Criteria Document") (three volumes, EPA/600/P-93-004aF through EPA/600/P-93-004cF, July 1996, NTIS #PB-96-185574,) and (The Review of the National Ambient Air Quality Standards for O₃: Assessment of Scientific and Technical Information ("Staff Paper") (EPA-452/R-96-007, June 1996, NTIS # PB-96-203435). Available for review at: <http://www.epa.gov/ttn/oarpg/t1main.html>.

See also: *Notice of Final Rulemaking*, Arizona Department of Environmental Quality, 11 AAR 3305, September 2, 2005. Available for review at: Maricopa County Air Quality Department, 1001 North Central Ave, Suite 695, Phoenix, AZ, 85004.

See also: *Schedule for 8-Hour Ozone Designations and its Effect on Early Action Compacts*, US EPA Memorandum, November 14, 2002. Available for review at: Maricopa County Air Quality Department, 1001 North Central Ave, Suite 695, Phoenix, AZ, 85004.

9. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

10. The preliminary summary of the economic, small business, and consumer impact:

1. Proposed expedited rule making

Rule Identification.

This rulemaking includes amendments to Rule 510, Air Quality Standards. Rule 510 includes the primary and secondary ambient air quality standards, requirements for determining pollutant concentrations, and other administrative requirements. Maricopa County is proposing this rulemaking to respond to recent notices published by the Environmental Protection Agency (EPA) in the Federal Register (FR). Maricopa County is required to incorporate rule changes promulgated by the EPA and published in the Code of Federal Regulations (CFR) into the Maricopa County Air Pollution Control Regulations. Maricopa County is updating its ambient air quality standards for PM_{2.5} and 8-hour averaged ozone to reflect the current standards. The Arizona Department of Environmental Quality (ADEQ) adopted these standards in a final rulemaking published in the Arizona Administrative Register (AAR) on September 2, 2005 (11 AAR 3305). In this rulemaking, Maricopa County is also proposing other rule revisions for consistency with the text in Title 18 of the Arizona Administrative Code (AAC), Chapter 2, Article 2 and 40 CFR.

Proposed changes to address recent FR notices

PM_{2.5}

In 1997, the EPA promulgated final rules implementing new primary and secondary National Ambient Air Quality Standards (NAAQS) for fine particulate matter, or particulate matter with an aerodynamic diameter of less than or equal to 2.5 microns (PM_{2.5}) (62 FR 38652 - 38760, July 18, 1997). The new federal primary standard for PM_{2.5}, is 15 micrograms per cubic meter (µg/m³), annual arithmetic mean concentration, and 65 µg/m³, 24-hour average concentration. The new federal secondary standard for PM_{2.5} is identical to the federal primary standard. In addition, Appendix L, Reference Method for the Determination of Fine Particulate Matter as PM_{2.5} in the Atmosphere, and Appendix N, Interpretation of the NAAQS for Particulate Matter, has been added to 40 CFR 50. The reference method in 40 CFR 50, Appendix K, has also been amended for conformity with the format of other appendices.

Sulfur Oxides

On May 22, 1996 (61 FR 25566 - 25580), the EPA promulgated a final decision concerning the NAAQS for sulfur oxides. In this decision, the EPA restated the NAAQS in terms of ppm rather than $\mu\text{g}/\text{m}^3$, added explicit rounding conventions, and specified data completeness and handling conventions. The EPA also announced its intention to retain the block averaging convention for the 24-hour, annual, and 3-hour standards and added this clarifying language to 40 CFR 50.4 and 50.5.

Ozone

On July 18, 1997 (62 FR 38856 - 38896), the EPA promulgated a final rule implementing new NAAQS for ozone. The new federal primary ozone NAAQS sets forth an 8-hour averaged standard at a level of 0.08 ppm. The standard is based on the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area. The new federal secondary standard is identical to the primary standard. The EPA has also revised Appendices D and H, removed and reserved Appendix E, and added a new Appendix I.

Proposed technical corrections

In this rulemaking, Maricopa County is also proposing other rule revisions for consistency with the text in Title 18 of the Arizona Administrative Code (AAC), Chapter 2, Article 2 and 40 CFR.

2. Persons who are affected, bear costs or directly benefit

Cost bearers

There should be no costs associated with this rulemaking, other than minor costs to Maricopa County for implementation and enforcement of the standards as county law, as discussed below.

Beneficiaries

There are benefits to the implementing agency, regulated community, small businesses, political subdivisions of the state, and members of the public. There are health benefits to all parties involved. There are benefits to the regulated community and small businesses in being regulated by a nearer government agency than by the EPA.

3. Cost/benefit analysis/summary

Probable costs and benefits to the implementing agencies, political subdivision, and businesses

Costs. There are no additional costs to the regulated community when a local agency incorporates an already effective federal standard. The costs of compliance have already occurred, and were considered when the federal regulation was proposed and adopted. These rules impose no additional costs on the regulated community, small businesses, political subdivisions, or members of the public.

Costs to Maricopa County are those that may accrue for implementation and enforcement of the standards as county law. These costs will be minimal, based on reducing confusion and ensuring correct standards are

applied. Maricopa County does not intend to hire any additional employees to implement or enforce these rules.

Benefits. Benefits accrue to the regulated community when a local agency incorporates a federal regulation in order to become the primary implementer of the regulation, because the local agency is closer to those being regulated and, therefore, is generally easier to contact and to work with to resolve differences, compared with the EPA, whose regional office for Arizona is in San Francisco. Local implementation also reduces travel and communication costs.

Health benefits accrue to the general public whenever enforcement of environmental laws takes place. Adverse health effects from air pollution result in a number of economic and social consequences, including:

1. **Medical Costs.** These include personal out-of-pocket expenses of the affected individual (or family), plus costs paid by insurance or Medicare, for example. Also included are reduced emergency room visits and hospital admissions.
2. **Work loss.** This includes lost personal income, plus lost productivity whether the individual is compensated for the time or not. For example, some individuals may perceive no income loss because they receive sick pay, but sick pay is a cost of business and reflects lost productivity.
3. **Increased costs for chores and caregiving.** These include special caregiving and services that are not reflected in medical costs. These costs may occur because some health effects reduce the affected individual's ability to undertake some or all normal chores, and he or she may require caregiving.
4. **Other social and economic costs.** These include restrictions on or reduced enjoyment of leisure activities, discomfort or inconvenience, pain and suffering, anxiety about the future, and concern and inconvenience to family members and others.

4. Private and public employment impact

This rule is expected to have no impact on employment.

5. Rule impact reduction on small businesses.

a. An identification of the small businesses subject to the proposed expedited rulemaking.

There are no increased costs for small businesses subject to the proposed expedited rulemaking.

b. The administrative and other costs required for compliance with the proposed expedited rulemaking.

There are no administrative and other costs required for compliance with the proposed expedited rulemaking.

c. A description of the methods that the agency may use to reduce the impact on small businesses.

ARS § 41-1035 requires Maricopa County to reduce the impact of a rule on small businesses by using certain methods when they are legal and feasible in meeting the statutory objectives of the rulemaking.

The five listed methods are:

1. Establish less stringent compliance or reporting requirements in the final rule for small businesses.
2. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.
3. Consolidate or simplify the rule's compliance or reporting requirements for small businesses.
4. Establish performance standards for small businesses to replace design or operational standards in the rule.
5. Exempt small businesses from any or all requirements of the rule.

A small business is defined in ARS § 41-1001 as a "concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year. For purposes of a specific rule, an agency may define small business to include more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small businesses and organizations." Maricopa County solicits input from stakeholders (i.e., small businesses) regarding administrative costs associated with compliance with proposed rulemakings and any other information relevant to the economics, small business, and consumer impact statement.

Maricopa County has determined that there is a beneficial impact on small businesses in transferring implementation of these rules to Maricopa County. In addition, Maricopa County is required to adopt the federal rules without reducing stringency. Maricopa County, therefore, has found that it is not legal or feasible to adopt any of the five listed methods in ways that reduce the impact of these rules on small businesses. Finally, where federal rules impact small businesses, the EPA is required by both the Regulatory Flexibility Act and the Small Business Regulatory Enforcement and Fairness Act to make certain adjustments in its own rulemakings. Information related to these acts may be found in the federal rules described in Section 5 of this Notice of Expedited Rulemaking.

The statutory objectives which are the basis of the rulemaking. The general statutory objectives that are the basis of this rulemaking are contained in the statutory authority cited in Section 2 of this Notice of Expedited Rulemaking. The specific objectives are as follows:

1. Implement rules necessary for the EPA delegation of Clean Air Act § 109 (NAAQS) program to Arizona.
2. Implement rules necessary for the EPA requirements of Clean Air Act § 110 for implementation of the NAAQS in Arizona.

d. The probable cost and benefit to private persons and consumers who are directly affected by the proposed expedited rulemaking.

Private persons or consumers will not be directly affected by the proposed expedited rulemaking, with the exception of the expected health benefits.

6. Probable effect on county revenues

There should be no effect on county revenues.

7. Less intrusive or costly alternative methods of achieving the expedited rulemaking.

None. Maricopa County is required to adopt the federal and state rules without reducing stringency.

Conclusion. In conclusion, the incremental costs associated with this rule are generally low, and apply solely to Maricopa County, while the air quality benefits are generally high. Costs to Maricopa County are those that may accrue for implementation and enforcement of the standards as county law. In addition, there are benefits to industry from being regulated by a geographically nearer government entity. There are no adverse economic impacts on political subdivisions. There are no adverse economic impacts on private businesses (the regulated community), their revenues or expenditures. The fact that no new employment is expected to occur has been discussed above. There are no adverse economic impacts on small businesses, although some regulatory benefits will accrue to them. There are no economic impacts for consumers; benefits to private persons as members of the general public are discussed above in terms of enforcement. There will be no direct impact on county revenues. There are no other, less costly alternatives for achieving the goals of this rulemaking. The rules are no less stringent and no more stringent than the federal regulations on each subject.

The preliminary economic impact statement (EIS) was developed to estimate the impact of the proposed expedited rule. The impact statement, comprised of potential costs and benefits, represents an estimate. Maricopa County solicits input from stakeholders that are small businesses and organizations on the administrative and other costs required for compliance with the proposed expedited rulemaking, and any other information relevant to the EIS.

11. The name and address of department personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Hilary R Hartline or Jo Crumbaker, Maricopa County Air Quality Department
Address: 1001 North Central Avenue, Suite # 695, Phoenix, AZ 85004
Telephone Number: 602-506-3476 or 602-506-6705
Fax Number: 602-506-6179
E-Mail Address: hhartline@mail.maricopa.gov or jcrumbak@mail.maricopa.gov

12. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule:

Written comments will be accepted if received between the date of this publication and Monday, July 31, 2006, 5:00 PM. Written comments may be mailed or hand delivered to the Maricopa County Air Quality Department (see Section 4 of this Notice of Expedited Rulemaking). Written comments received during the comment period will be considered formal comments to the proposed expedited rule and will be responded to in the Notice of Final Rulemaking.

13. Any other matters prescribed by statute that are applicable to the specific department or to any specific rule or class of rules:

Not applicable.

14. Incorporations by reference and their location in the rules:

All items noted to be incorporated by reference are incorporated by reference in Appendix G of the Maricopa County Air Pollution Control Regulations.

15. The full text of the rule follows:

REGULATION V - AIR QUALITY STANDARDS AND AREA CLASSIFICATION

RULE 510

AIR QUALITY STANDARDS

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SECTION 300 - STANDARDS

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- 302 PARTICULATE MATTER - 10 MICRONS OR LESS (PM₁₀)
- 303 SULFUR OXIDES (SULFUR DIOXIDE)
- 304 OZONE
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Revised 07/13/88

MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS

REGULATION V - AIR QUALITY STANDARDS AND AREA CLASSIFICATION

RULE 510
AIR QUALITY STANDARDS

SECTION 100 - GENERAL

- 101 PURPOSE:** To establish maximum limiting levels for pollutants existing in the ambient air which are necessary to protect human health and public welfare.
- 102 AVAILABILITY OF INFORMATION:** Copies of materials referenced in Sections 310, 401.1, and 401.2 of this rule are available at 1001 North Central Avenue, Suite 695, Phoenix, AZ, 85004 or call (602) 506-6010.

SECTION 200 - DEFINITIONS: See Rule 100 (General Provisions And Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule. For the purpose of this rule, the following definitions shall apply:

- 201 PRIMARY AMBIENT AIR QUALITY STANDARDS** - The ambient air quality standards which define levels of air quality necessary, with an adequate margin of safety, to protect the public health, as determined by the Arizona Department of Environmental Quality and United States Environmental Protection Agency, and specified in this rule.
- 202 SECONDARY AMBIENT AIR QUALITY STANDARDS** - The ambient air quality standards which define levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant, as determined by the Arizona Department of Environmental Quality and United States Environmental Protection Agency, and specified in this rule.

SECTION 300 - STANDARDS: The following are established as the primary and secondary ambient air quality standards for Maricopa County:

301 **TOTAL SUSPENDED PARTICULATES: PARTICULATE MATTER - 2.5 MICRONS OR LESS (PM_{2.5}):**

301.1 ~~**Annual Geometric Mean:** The maximum allowable annual geometric mean concentration shall be 75 micrograms per cubic meter.~~ **Primary and Secondary Ambient Air Quality Standards for PM_{2.5} Annual Arithmetic Mean Concentration:** The annual arithmetic mean concentration shall be 15 micrograms per cubic meter (µg/m³). The standard shall be considered attained when the annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, Appendix N, is less than or equal to 15 µg/m³.

301.2 ~~**24-hour Concentration:** The maximum allowable 24 hour concentration shall be 260 micrograms per cubic meter. This concentration shall not be exceeded more than once per year at any one location.~~ **Primary and Secondary Ambient Air Quality Standards for PM_{2.5} 24-hour Average Concentration:** The 24-hour average concentration shall be 65 µg/m³. The standard shall be considered attained when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR 50, Appendix N, is less than or equal to 65 µg/m³.

302 **PARTICULATE MATTER - 10 MICRONS OR LESS (PM₁₀):**

302.1 ~~**Annual Arithmetic Mean:** The maximum allowable annual arithmetic mean concentration shall be 50 micrograms per cubic meter. To determine attainment, the annual arithmetic mean is calculated by averaging the annual arithmetic averages from three successive years of data.~~ **Primary and Secondary Ambient Air Quality Standards for PM₁₀ Annual Arithmetic Mean Concentration:** The annual arithmetic mean concentration shall be 50 µg/m³. The standard shall be considered attained when the expected annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, Appendix K, is less than or equal to 50 µg/m³.

302.2 ~~**24-hour Concentration:** The maximum allowable 24 hour concentration shall be 150 micrograms per cubic meter. This concentration shall not be exceeded more than once per year at any one location.~~ **Primary and Secondary Ambient Air Quality Standards for PM₁₀ 24-hour Average Concentration:** The 24-hour average concentration shall be 150 µg/m³. This concentration shall not be exceeded more than once per calendar year at any one location. The standard shall be considered attained when the expected number of

days per calendar year with a 24-hour average concentration above 150 $\mu\text{g}/\text{m}^3$, as determined in accordance with 40 CFR 50, Appendix K, is less than or equal to 1.

303 **SULFUR OXIDES (SULFUR DIOXIDE):**

303.1 ~~**Annual Arithmetic Mean Concentration:**~~ **Primary Ambient Air Quality Standards for Sulfur Oxides (Measured as Sulfur Dioxide):** ~~The maximum allowable annual arithmetic mean concentration shall be 80 micrograms per cubic meter (0.03 ppm).~~

a. Annual Arithmetic Mean Concentration: The annual arithmetic mean concentration shall be 0.030 parts per million (ppm) (80 $\mu\text{g}/\text{m}^3$). This concentration shall not be exceeded in a calendar year. The annual arithmetic mean shall be rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm shall be rounded up).

b. 24-hour Concentration: The maximum 24-hour concentration shall be 0.14 ppm (365 $\mu\text{g}/\text{m}^3$). This concentration shall not be exceeded more than once per calendar year at any one location. The 24-hour averages shall be determined from successive nonoverlapping 24-hour blocks starting at midnight each calendar day and shall be rounded to two decimal places (fractional parts equal to or greater than 0.005 ppm shall be rounded up).

303.2 ~~**24-hour Concentration:**~~ ~~The maximum allowable 24-hour concentration for sulfur dioxide shall be 365 micrograms per cubic meter (0.14 ppm). This concentration shall not be exceeded more than once per year at any one location.~~

Secondary Ambient Air Quality Standard for Sulfur Oxides (Measured as Sulfur Dioxide) 3-Hour Concentration: The maximum 3-hour concentration shall be 0.5 ppm (1300 $\mu\text{g}/\text{m}^3$). This concentration shall not be exceeded more than once per calendar year at any one location. The 3-hour averages shall be determined from successive nonoverlapping 3-hour blocks starting at midnight each calendar day and shall be rounded to 1 decimal place (fractional parts equal to or greater than 0.05 ppm shall be rounded up).

303.3 ~~**Three-hour Concentration:**~~ ~~The maximum allowable 3-hour concentration for sulfur dioxide shall be 1300 micrograms per cubic meter (0.5 ppm). This concentration shall not be exceeded more than once per year at any one location.~~

304 **OZONE:**

304.1 ~~One-hour Average Concentration:~~ ~~The maximum allowable one hour average concentration shall be 0.12 parts per million (235 ug/m³). This concentration shall not be exceeded more than once per year at any one location.~~

Primary and Secondary Ambient Air Quality Standards for Ozone Eight-hour Average Concentration: The daily maximum eight-hour average concentration shall be 0.08 ppm. The standard shall be considered attained at an ambient air quality monitoring site when the average of the annual fourth-highest daily maximum eight-hour average ozone concentration, as determined in accordance with 40 CFR 50, Appendix I, is less than or equal to 0.08 ppm.

305 CARBON MONOXIDE:

305.1 ~~One-hour Concentration:~~ Primary Ambient Air Quality Standards for Carbon Monoxide: ~~The maximum allowable one hour concentration shall be 35 ppm (40 mg/m³). This concentration shall not be exceeded more than once per year at any one location.~~

a. One-hour Average Concentration: The maximum one-hour average concentration shall be 35 ppm (40 mg/m³). This concentration shall not be exceeded more than once per year at any one location.

305.2 ~~Eight-hour Concentration:~~ ~~The maximum allowable eight hour concentration shall be 9 ppm (10 mg/m³). This concentration shall not be exceeded more than once per year at any one location.~~

b. Eight-hour Average Concentration: The maximum eight-hour average concentration shall be 9 ppm (10 mg/m³). This concentration shall not be exceeded more than once per year at any one location. An eight-hour average shall be considered valid if at least 75% of the hourly averages for the eight-hour period are available. In the event that only six or seven hourly averages are available, the eight-hour average shall be computed on the basis of the hours available using 6 or 7 as the divisor.

305.2 When summarizing data for comparison with the standards, averages shall be stated to one decimal place. Comparison of the data with the levels of the standards in ppm shall be made in terms of integers with fractional parts of 0.5 or greater rounding up.

306 NITROGEN DIOXIDE:

306.1 ~~Annual Arithmetic Mean Concentration:~~ ~~The maximum allowable annual arithmetic mean concentration for nitrogen dioxide shall be 100 micrograms per cubic meter (0.05 ppm).~~

Primary and Secondary Ambient Air Quality Standards for Nitrogen Dioxide Annual Arithmetic Mean Concentration: The annual arithmetic mean concentration shall be 0.053 ppm (100 µg/m³). The standard shall be considered attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to three decimal places, with fractional parts equal to or greater than 0.0005 ppm rounded up. To demonstrate attainment, an annual mean shall be based upon hourly data that is at least 75% complete, or upon data derived from manual methods that is at least 75% complete for the scheduled sampling days in each calendar quarter.

307 LEAD:

307.1 ~~Quarterly Arithmetic Mean Concentration:~~ ~~The maximum allowable lead concentration shall be 1.5 micrograms per cubic meter, arithmetic mean as averaged over a calendar quarter.~~

Primary and Secondary Ambient Air Quality Standards for Lead Quarterly Maximum Arithmetic Mean Concentration: The maximum arithmetic mean concentration for lead and its compounds, measured as elemental lead, shall be 1.5 µg/m³, as averaged over a calendar quarter.

308 POLLUTANT CONCENTRATION DETERMINATIONS: ~~Except as provided under subsections 309.1 and 309.2 of this rule, pollutant~~ Pollutant concentrations shall be measured by the following ~~methods: appendices to Title 40, Part 50 of the Code of Federal Regulations:~~

308.1 Appendices to 40 CFR 50: Pollutant concentrations shall be measured by the following appendices to 40 CFR 50:

<u>Pollutant</u>	<u>CFR 40, Part 50 40 CFR 50</u>
Total Suspended Particulates	Appendix B
<u>Particulate Matter (PM_{2.5})</u>	<u>Appendix L</u>
<u>Particulate Matter (PM₁₀)</u>	<u>Appendix J</u>
<u>Sulfur Oxides (Sulfur Dioxide)</u>	<u>Appendix A</u>

Ozone	Appendix D
Carbon Monoxide	Appendix C
Nitrogen Dioxide	Appendix F
Lead	Appendix G

308.1 308.2 Reference or Equivalent Methods: Pollutant concentrations shall also be measured by:

- a. A method of measurement that has been designated, ~~prior to the effective date of this regulation,~~ as a reference or equivalent method by the Administrator acting pursuant to ~~Title 40, Part 53 of the Code of Federal Regulations.~~ 40 CFR 53; or
- b. A method of measurement that, though not designated as a reference or equivalent method, has been approved for use ~~prior to the effective date of this regulation,~~ by the Administrator acting pursuant to ~~Title 40, Part 51, Section 51.17a of the Code of Federal Regulations~~40 CFR 58, Appendix C. Such method shall be subject to any restrictions placed on its use by the Administrator.

~~**308.2 Additional Methods:** The Control Officer may approve additional methods of measurement upon a finding that:~~

- ~~a. The method of measurement proposed for use has been designated, subsequent to the effective date of this regulation, a reference or equivalent method by the Administrator acting pursuant to Title 40, Part 53 of the Code of Federal Regulations.~~
- ~~b. The accuracy and other performance specifications of the method of measurement for which approval is sought make that method substantially equivalent or superior to methods previously approved for use.~~

308.3 Method Withdrawal: The cancellation or supersession of designation of a reference or equivalent method, ~~subsequent to the effective date of these regulations,~~ by the Administrator acting pursuant to ~~Title 40, Part 53, Sections 53.11 and 53.16 of the Code of Federal Regulations~~ 40 CFR 53.11 or 53.16, shall also amount to a withdrawal of the authorization for use of that method for purposes of this regulation. ~~However, such withdrawal of the authorization shall not become effective until the Administrator has~~

~~determined that such withdrawal was supported by sufficient evidence and has specified a period of not less than nine months in which existing, non-approved analyzers may be replaced.~~

309 ADDITIONAL REQUIREMENTS:

309.1 Quality assurance, monitor siting, and sample probe installation procedures shall be in accordance with the procedures described in the Appendices to 40 CFR 58.

309.2 Unless otherwise specified, interpretation of all ambient air quality standards contained in this rule shall be in accordance with 40 CFR 50.

309.3 The evaluation of air quality data in terms of procedure, methodology, and concept is to be consistent with methods described in 40 CFR 50.

310 INCORPORATIONS BY REFERENCE: The CFR references listed below are incorporated by reference in Appendix G of these rules:

40 CFR 50;

40 CFR 50, Appendices A through N;

40 CFR 53;

40 CFR 58.26 and 40 CFR 58.50; and

40 CFR 58, all appendices.

SECTION 400 - ADMINISTRATIVE REQUIREMENTS

401 PUBLIC NOTIFICATION AIR STANDARDS VIOLATIONS: ~~Any violations of the National Ambient Air Quality Standards (NAAQS) which have occurred during the previous calendar year shall be communicated to the public in an annual report. This report shall be issued each year no later than August 1 and shall include the following:~~

REPORTING OF AMBIENT AIR QUALITY MONITORING DATA:

401.1 ~~The date, time and duration of any pollutant level exceeded. The levels shall be expressed through the use of the Pollution Standard Index (PSI).~~

Annual Air Quality Monitoring Report: The Control Officer shall submit to the Administrator an annual summary report that at a minimum meets the requirements of 40 CFR 58.26 and 40 CFR 58, Appendix F. The annual report will be made available to the public at the address listed in Section 102 of this rule.

~~401.2 An explanation to the public of any health hazards associated with each pollutant level exceeded. This shall be in the form of a narrative supported with statistical documentation.~~

Daily Air Quality Index (AQI) Report : The Control Officer shall report to the general public an AQI that at a minimum meets the requirements of 40 CFR 58.50 and 40 CFR 58, Appendix G. The AQI will also be made available to the public at the address listed in Section 102 of this rule.

~~401.3 Suggestions to the public on ways that the violation might be avoided in the future and what steps can be taken to alleviate the severity of the violations while they are occurring.~~

~~401.4 A description of ways in which the public can participate in the regulatory process including a summary of proposed regulatory changes for the coming year and a tentative schedule of public meetings which will be held to consider changes and new regulations.~~

SECTION 500 - MONITORING AND RECORDS (NOT APPLICABLE)

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